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The Honorable Mary Jo Heston  
Chapter 11  
Hearing Date: December 20, 2023  
Hearing Time: 10:30 a.m.  
Hearing Location: Courtroom H  
1717 Pacific Avenue, Tacoma, WA  
Response Date: December 13, 2024

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON**

In re

SPEED TRANS, LLC,

Debtor(s).

NO. 23-41110

STATE OF WASHINGTON'S  
OBJECTION TO CONFIRMATION  
OF PLAN AND AMENDED PLANS

[ECF Nos. 102, 143, 163]

The State of Washington Departments of Revenue, Labor and Industries, and  
Employment Security, by and through the undersigned attorneys, object to confirmation of the  
debtor's Plan of Reorganization filed herein as ECF No. 102, and the Debtor's 1<sup>st</sup> and 2<sup>nd</sup>  
Amended Plans of Reorganization filed herein as ECF Nos. 143 and 163 (collectively, the  
"Plan"). The reasons for the State's objection are as follows:

1. Legal Authority. Under 11 U.S.C. § 1191(a), the court shall confirm a  
Subchapter V plan only if it meets all of the requirements set forth in 11 U.S.C. § 1129(a)  
other than paragraph (15) of that section. In turn, 11 U.S.C. § 1129(a)(9)(C) requires that,  
absent an agreement otherwise, the plan retire priority tax claims within 60 months from the  
date the petition was filed, and that payment is made in a manner not less favorable than the

1 most favored nonpriority unsecured claim provided for by the plan. Debtor filed its petition on  
2 July 11, 2023. Sixty months from the filing date is July 11, 2028.

3 2. Department of Revenue Claim. The Department of Revenue (DOR) has filed  
4 Claim No. 8-1 for a total of \$24,897.00, of which \$19,300.00 is for priority tax and prepetition  
5 interest and the \$5,597 balance is a general unsecured claim for tax penalties.

6 3. Department of Labor & Industries Claims. The Department of Labor and  
7 Industries (L&I) has filed Claim No. 15-1 for a total of \$11,805.54, of which \$11,691.53 is for  
8 priority tax and prepetition interest and the \$114.01 balance is a general unsecured claim for tax  
9 penalties. L&I filed a second Proof of Claim for \$27.50 as a general unsecured creditor, based on  
10 violation of RCW 49.70.177, L&I's "Right to Know" statute (see Claim No. 16-1).

11 4. Employment Security Department Claim. The Employment Security Department  
12 (ESD) has filed Claim No. 2-1 for a total of \$2,491.28, of which \$2,095.84 is for priority tax and  
13 prepetition interest and the \$395.44 balance is a general unsecured claim for tax penalties.

14 5. Prima Facie Evidence. Pursuant to Federal Rule of Bankruptcy Procedure 3001(f),  
15 the proofs of claim filed by DOR, L&I, and ESD are prima facie evidence of the validity and  
16 amount of those agencies' claims.

17 6. Proposed Payments.

18 a) State Tax Agencies. Debtor proposes to pay all three of the State taxing  
19 agencies in monthly installments of \$200 for each agency, beginning on March 15,  
20 2024<sup>1</sup> and continuing thereafter until each claim is paid in full, with interest accruing  
21 at a rate, designated as "statutory", of 4%.

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26 <sup>1</sup> ECF No. 148 at page 8 actually proposes to start payments to DOR on March 15, 2023; however,  
March 15, 2023 passed before Debtor filed this bankruptcy. For purposes of its analysis, the State assumes the

1           b)     Federal Tax Agency. The Internal Revenue Service (IRS) has filed  
2     Claim No. 14-1 for a total of \$65,150.34, of which \$34,984.95 is for priority tax and  
3     prepetition interest and the \$28,165.39 balance has been designated as a general unsecured  
4     claim. See Claim No. 14-1 on file herein. Debtor proposes to pay the IRS on its  
5     priority claim in monthly installments of \$650 each, beginning on March 15, 2024 and  
6     continuing thereafter until the claim is paid in full, with interest accruing at a rate,  
7     designated as “statutory”, of 7%.

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9           c)     General Unsecured Claims. The Debtor proposes to pay general  
10    unsecured claims pro rata from a monthly payment of \$15,000.00 beginning on  
11    August 1, 2025 and continuing until 100% is returned, with interest accruing at the  
12    rate of 5.36%. Although Debtor proposes to fully retire general unsecured claims, its  
13    Plan does not offer information sufficient to determine what a 100% payout would  
14    look like. On Schedule E, Debtor has indicated \$684,480.00 owing to general  
15    unsecured creditors. ECF No. 54. Proofs of claim on file indicate general unsecured  
16    claims in the vicinity of \$177,622.44. See proofs of claims number 1-1 (\$15,193.96 to  
17    Dobbs Peterbuilt), 2-1 (\$395.44 to ESD), 3-1 (\$3,358.00 to Pacific Office Automation,  
18    LLC), 5-1 (\$103,360.14 to JPMorgan Chase Bank, N.A.), 6-3 (\$5581.91 to JPMorgan  
19    Chase Bank, N.A.), 8-1 (\$5,597.00 to DOR), 9-1 (\$11,558.98 to NCSI, Inc.), 12-1  
20    (\$4,310.11 to XTRA Lease, LLC), 14-1 (\$28,165.39 to IRS), 15-1 (\$114.01 to L&I),  
21    and 16-1 (\$27.50 to L&I).

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26    Debtor intends to begin payments to DOR on the same date it proposes to begin payments to L&I and ESD; that is  
March 15, 2024.

1           7.     Objection to Treatment of General Unsecured Creditors More Favorably than  
2 Higher Priority Tax Creditors. At the rate of \$15,000 per month, the debtor would need 46  
3 months to retire the principal portion of the general unsecured debt it reflects on Schedule E.  
4 It would need only approximately 12 months to retire the principal portion of the general  
5 unsecured debt reflected in the Proofs of Claim on file herein. Nothing in the Plan indicates  
6 how much general unsecured debt is to be retired and with the absence of a dollar figure,  
7 interest cannot be computed. Regardless of which estimate is used, general unsecured  
8 creditors will be paid their principal in full, ahead of the higher priority state tax claimants.  
9 Such an outcome violates 11 U.S.C. § 1129(a)(9)(C)(iii) and the State objects to confirmation  
10 of the Plan as written.  
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12           8.     Specific Objection of DOR. At the rate of \$200 per month, it will take Debtor  
13 more than 96 months to retire just the principal portion of DOR's \$19,300 priority tax claim.  
14 DOR does not agree to treatment less than required by 11 U.S.C. § 1129(a)(9)(C).  
15 Additionally, at the rate of \$650 per month, it will take Debtor only 54 months to retire just  
16 the principal portion of the IRS's \$34,984.95 priority tax claim. Under the Plan, not only will  
17 the IRS will receive treatment within the 60 month window permitted under 11 U.S.C. §  
18 1129(a)(9)(C)(ii), it will be paid at rate significantly greater than the rate Debtor proposes to  
19 pay the state taxing agencies, which stand on equal footing with the IRS in terms of priority.  
20 While the debts owed to each agency might differ in amount, the Plan should not discriminate  
21 among creditors of the same priority and DOR objects to payment rates that are not made pro-  
22 rata with the IRS. Finally, with respect to interest, (a) the Plan does not specify the periodicity  
23 at which interest is to be computed, and (b) the statutory interest rate for delinquencies owed  
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1 to DOR is set forth in RCW 82.32.050(1)(b) and (2), is not currently 4%, and may be  
2 something different on the Effective Date. Whatever the statutory rate turns out to be, the  
3 Debtor cannot retire the principal tax amount, much less interest thereon, within 60 months  
4 from the petition date as required by the Code. DOR objects to confirmation of the Plan as  
5 written.

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7 9. Specific Objection of L&I. At the rate of \$200 per month, it will take Debtor  
8 more than 58 months to retire just the principal portion of L&I's \$11,691.53 priority tax  
9 claim. There is no way to calculate appropriate interest because (a) the Plan does not specify  
10 the periodicity at which interest is to be computed, and (b) the statutory interest rate for  
11 delinquencies owed to L&I is set forth in RCW 51.48.210 at the rate of 12% per annum. At  
12 the rate of 12% per annum, interest on L&I's \$11,691.53 priority tax claim will extend the  
13 debt owed by another \$7,014.92 and extend the payment period by another 35 months. This  
14 puts full retirement of L&I's priority tax claim, with interest at the rate specified in RCW  
15 51.48.210, some 93 months out. L&I does not agree to treatment less than that required by 11  
16 U.S.C. § 1129(a)(9)(C) and objects to confirmation of the Plan as written.

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18 10. Specific Objection of ESD. ESD does not object to being paid at the rate of  
19 \$200 per month, commencing on March 15, 2024 because at that rate, its principal priority tax  
20 debt should be retired in full within 11 months. This is consistent with the requirements of 11  
21 U.S.C. § 1129(a)(9)(C). However, there is no way to compute appropriate interest because (a)  
22 the Plan does not specify the periodicity at which interest is to be computed, and (b) the  
23 statutory interest rate for delinquencies owed to ESD is set forth in RCW 50.24.040 at the rate  
24 of 12% per annum. At the rate of 12% per annum, interest on ESD's \$2,095.84 priority tax  
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1 claim will extend the debt owed by another \$230.54 and extend the payment period by  
2 another 2 months. Absent an amendment to provide for interest on ESD's priority tax claim at  
3 the rate of 12% per annum, ESD objects to confirmation of the Plan.

4 11. Cramdown Plan. Under 11 U.S.C. § 1191(b), if the debtor cannot win the vote  
5 of an impaired class, it may seek confirmation under a cramdown plan as long as the plan  
6 does not discriminate unfairly and is fair and equitable to each class of claims that is  
7 impaired under and has not accepted the plan. None of the tax agencies have been classified  
8 and none are permitted to vote on the plan. Because cramdown plans pertain only to classified  
9 and voting claims, Debtor cannot seek to confirm even a cramdown plan until such time as it  
10 amends the Plan to treat priority tax debt as required by the Code.  
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12 For the foregoing reasons, the State respectfully requests the Court deny confirmation  
13 of the Plan as currently written.  
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15 DATED this 13<sup>th</sup> day of December 2023.

16 ROBERT W. FERGUSON  
17 Attorney General

18 /s/ Dina L. Yunker

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20 Assistant Attorney General  
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